

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

OLIVER ROCHER,

Petitioner,

v.

Case No.: 2:20-cv-922-SPC-MRM

UNITED STATES OF AMERICA,

Respondent.

ORDER¹

Before the Court is pro se Plaintiff Oliver Rocher's Motion for Reconsideration ([Doc. 19](#)). The Court denied Rocher's 2255 Motion. ([Doc. 15](#)). In doing so, the Court addressed Grounds 1-4, which Rocher raised in his Motion and forty-four-page Memo in support ([Docs. 1; 2](#)). The Government briefed all four issues. ([Doc. 11](#)). Now, Rocher claims he actually raised nine grounds. Since the Government did not respond to the unidentified Grounds 5-9, says Rocher, the Court must reconsider and grant his 2255. Not so.

Because Rocher sought reconsideration within twenty-eight days, the Court liberally construes this under Rule 59(e). Following Rule 59(e),

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reconsideration may be proper to correct “manifest errors of law or fact.” *Jenkins v. Anton*, 922 F.3d 1257, 1263 (11th Cir. 2019). It may also be appropriate to account for intervening changes in law and newly discovered (or previously unavailable) evidence. *Banister v. Davis*, 140 S. Ct. 1698, 1703 n.2 (2020). And a 59(e) motion might fit “if there is a need to correct a manifest injustice.” *E.g., LLC SPC Stileks v. Rep. of Mold.*, 985 F.3d 871, 882 (D.C. Cir. 2021). Ultimately, the decision to reconsider “is committed to the sound discretion of the district judge.” *United States v. Jim*, 891 F.3d 1242, 1252 (11th Cir. 2018) (citation omitted).

Courts grant reconsideration sparingly, and these are not chances to “relitigate old matters.” *See Grange Mut. Cas. Co. v. Slaughter*, 958 F.3d 1050, 1059-60 (11th Cir. 2020) (citation omitted). Nor will courts “address new arguments or evidence that the moving party could have raised before the decision issued.” *Banister*, 140 S. Ct. at 1703. “The burden is upon the movant to establish the extraordinary circumstances supporting reconsideration.” *U.S. ex rel. Matej v. Health Mgmt. Assocs.*, 869 F. Supp. 2d 1336, 1348 (M.D. Fla. 2012) (citation omitted).

While a bit unclear, Rocher seems to contend he filed a seventy-two-page motion and memo addressing nine grounds. ([Doc. 19 at 2-3](#)). To be sure, Rocher referenced Grounds 5-9 at various points earlier. But Rocher never

filed briefing on them. Nor did he ever identify what Grounds 5-9 might be.

And the time to raise argument in support of his Motion expired long ago.

What's more, Rocher says the Government confirmed he raised Grounds 5-9 when it asked for more pages to respond to his seventy-two-page motion. Yet that isn't true. The Government specifically requested more pages "to respond to the 44-page, single spaced memorandum filed by" Rocher. ([Doc. 10 at 1](#)). In other words, the Government confirmed it received the four-ground Motion and forty-four-page Memo filed with the Court. ([Docs. 1; 2](#)).

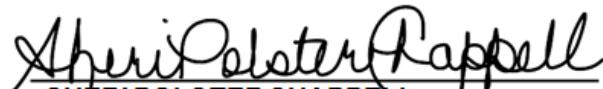
Simply put, Rocher failed to file or disclose any additional grounds he intended to raise in his 2255 Motion. Because the time to do so passed over a year ago, there is nothing to reconsider.

Accordingly, it is now

ORDERED:

Plaintiff's Motion for Reconsideration ([Doc. 19](#)) is **DENIED**.

DONE and **ORDERED** in Fort Myers, Florida on March 10, 2022.



Sheri Polster Chappell
SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record